

STATE OF SOUTH CAROLINA

(Caption of Case)

Annual Review of Base Rates for Fuel Costs of South
Carolina Electric & Gas Company

215638
BEFORE THE
PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA

COVER SHEET

DOCKET

NUMBER: 2009 - 2 - E

(Please type or print)

Submitted by: Benjamin P. Mustian, Esquire

SC Bar Number: 68269

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NOTE: The cover sheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for use by the Public Service Commission of South Carolina for the purpose of docketing and must be filled out completely.

DOCKETING INFORMATION (Check all that apply)

☐ Emergency Relief demanded in petition ☒ Request for item to be placed on Commission's Agenda expeditiously

☐ Other:

INDUSTRY (Check one)	NATURE OF ACTION (Check all that apply)		
<input checked="" type="checkbox"/> Electric	<input type="checkbox"/> Affidavit	<input type="checkbox"/> Letter	<input type="checkbox"/> Request
<input type="checkbox"/> Electric/Gas	<input type="checkbox"/> Agreement	<input type="checkbox"/> Memorandum	<input type="checkbox"/> Request for Certification
<input type="checkbox"/> Electric/Telecommunications	<input type="checkbox"/> Answer	<input checked="" type="checkbox"/> Motion	<input type="checkbox"/> Request for Investigation
<input type="checkbox"/> Electric/Water	<input type="checkbox"/> Appellate Review	<input type="checkbox"/> Objection	<input type="checkbox"/> Resale Agreement
<input type="checkbox"/> Electric/Water/Telecom.	<input type="checkbox"/> Application	<input type="checkbox"/> Petition	<input type="checkbox"/> Resale Amendment
<input type="checkbox"/> Electric/Water/Sewer	<input type="checkbox"/> Brief	<input type="checkbox"/> Petition for Reconsideration	<input type="checkbox"/> Reservation Letter
<input type="checkbox"/> Gas	<input type="checkbox"/> Certificate	<input type="checkbox"/> Petition for Rulemaking	<input type="checkbox"/> Response
<input type="checkbox"/> Railroad	<input type="checkbox"/> Comments	<input type="checkbox"/> Petition for Rule to Show Cause	<input type="checkbox"/> Response to Discovery
<input type="checkbox"/> Sewer	<input type="checkbox"/> Complaint	<input type="checkbox"/> Petition to Intervene	<input type="checkbox"/> Return to Petition
<input type="checkbox"/> Telecommunications	<input type="checkbox"/> Consent Order	<input type="checkbox"/> Petition to Intervene Out of Time	<input type="checkbox"/> Stipulation
<input type="checkbox"/> Transportation	<input type="checkbox"/> Discovery	<input type="checkbox"/> Prefiled Testimony	<input type="checkbox"/> Subpoena
<input type="checkbox"/> Water	<input type="checkbox"/> Exhibit	<input type="checkbox"/> Promotion	<input type="checkbox"/> Tariff
<input type="checkbox"/> Water/Sewer	<input type="checkbox"/> Expedited Consideration	<input type="checkbox"/> Proposed Order	<input type="checkbox"/> Other:
<input type="checkbox"/> Administrative Matter	<input type="checkbox"/> Interconnection Agreement	<input type="checkbox"/> Protest	
<input type="checkbox"/> Other:	<input type="checkbox"/> Interconnection Amendment	<input type="checkbox"/> Publisher's Affidavit	
	<input type="checkbox"/> Late-Filed Exhibit	<input type="checkbox"/> Report	

WILLOUGHBY & HOEFER, P.A.

ATTORNEYS & COUNSELORS AT LAW

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SPECIAL COUNSEL

*ALSO ADMITTED IN TX

March 9, 2009

VIA HAND-DELIVERY

The Honorable Charles L.A. Terreni
Chief Clerk/Administrator
Public Service Commission of South Carolina
101 Executive Center Drive
Columbia, South Carolina 29210

RECEIVED
2009 MAR - 9 11:16 AM
PUBLIC SERVICE
COMMISSION

RE: Annual Review of Base Rates for Fuel Costs of South Carolina Electric & Gas
Company; Docket No. 2009-2-E

Dear Mr. Terreni:

Enclosed for filing on behalf of South Carolina Electric & Gas Company are the original and one (1) copy of the Motion for Confidential Treatment in the above-referenced matter. By copy of this letter, I am serving a copy of these documents upon the parties of record and enclose a Certificate of Service to that effect.

I would appreciate your acknowledging receipt of these documents by date-stamping the extra copies that are enclosed and returning the same to me via our courier.

If you have any questions, or if you need any additional information, please do not hesitate to contact me.

Sincerely,

WILLOUGHBY & HOEFER, P.A.


Benjamin P. Mustian

BPM/cf
Enclosures

The Honorable Charles L.A. Terreni

March 9, 2009

Page 2

cc: Nanette S. Edwards, Esquire
Shannon B. Hudson, Esquire
Scott Elliott, Esquire
E. Wade Mullins, Esquire
Joey R. Floyd Esquire
Damon E. Xenopoulos, Esquire
K. Chad Burgess, Esquire (All Via First Class Mail)

RECEIVED
2009 MAR 19 11:47
S.C. PUBLIC SERVICE
COMMISSION

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2009-2-E

IN RE:)
)
Annual Review of Base Rates For)
Fuel Costs of South Carolina Electric)
and Gas Company.)
_____)

MOTION FOR
CONFIDENTIAL
TREATMENT

Pursuant to S.C. Code Ann. Regs. 103-804(S) and 103-829, S.C. Code Ann. Section 30-4-10 *et seq.*, and other applicable South Carolina law, South Carolina Electric & Gas Company (“SCE&G” or the “Company”) hereby moves the Public Service Commission of South Carolina (“Commission”) for a protective order affording confidential treatment to certain testimony filed in this matter by the South Carolina Office of Regulatory Staff (“ORS”) and CMC Steel South Carolina (“CMC Steel”) and protecting same from public disclosure. In support thereof, SCE&G would respectfully show as follows:

During the pendency of this proceeding, ORS and CMC Steel, among others, independently of each other requested certain information of SCE&G for their review. SCE&G, in responding to these requests, deemed certain of the requested information as proprietary, commercially and/or competitively sensitive, confidential and trade secrets (“Confidential Information”). In order to protect the confidential nature of this information, SCE&G entered into confidentiality agreements with ORS and CMC Steel

whereby the parties agreed, *inter alia*, not to disclose any of the Confidential Information, to treat such information as proprietary, commercially and/or competitively sensitive or confidential or in the nature of a trade secret, and to safeguard such information so as to prevent disclosure to any other person. Additionally, SCE&G agreed with ORS and CMC Steel respectfully that, if a receiving party desired to use any of the Confidential Information provided to such party as part of any filing, argument, or hearing in this proceeding, the party would confer with SCE&G and in good faith work to establish a procedure designed to protect the Confidential Information from disclosure to the public.

On March 5, 2009, ORS and CMC Steel each filed public and confidential versions of their direct testimony in this proceeding. After reviewing the testimony, SCE&G has determined that the confidential versions use, discuss, reference or otherwise incorporate Confidential Information. More specifically, portions of the confidential testimony and exhibits of ORS Witness A. Randy Watts address issues relating to confidential information including, but not limited to, coal supplier contracts and transportation rates. Further, portions of the confidential testimony and exhibits of CMC Steel Witness Richard Thomas address issues relating to Confidential Information including, but not limited to, coal contracts with various vendors.

SCE&G submits that testimony as described above contains Confidential Information that is proprietary, commercially and/or competitively sensitive or confidential or in the nature of a trade secret. Specifically, many, if not all, of the underlying contracts to be discussed by these witnesses contain confidentiality provisions that require SCE&G to protect proprietary information that the contractors or vendors believe to constitute trade secrets and to be commercially sensitive. Furthermore, due to

the highly competitive nature of these industries, disclosure of this Confidential Information could adversely affect the Company's ability to enter into arms-length transactions with future vendors, thus resulting in the potential for less favorable terms and prices for SCE&G and its customers.

SCE&G submits that, pursuant to 26 S.C. Code Regs. 103-804(S)(2), the determination of whether a document may be exempt from disclosure is within the Commission's discretion. SCE&G therefore respectfully requests that the Commission find that the confidential version of the direct testimony and exhibits of ORS Witness Watts and CMC Steel Witness Thomas contain protected information and issue a protective order protecting the confidential testimony and exhibits from public disclosure pursuant to the Freedom of Information Act, S.C. Code Ann. §§ 30-4-10 *et seq.*, S.C. Code Ann. Regs. 103-804(S)(1), or any other provision of law. The Company further requests that, in the event that anyone should seek disclosure of the confidential testimony or exhibits, the Commission notify SCE&G of such request and provide it with an opportunity to receive notice and be heard before the Commission acts upon any such request or provide notice and a reasonable time for SCE&G to petition a court of competent jurisdiction for an order protecting the confidential testimony from disclosure.

WHEREFORE, SCE&G requests that the Commission afford confidential treatment of the confidential version of the direct testimony and exhibits of ORS Witness Watts and CMC Steel Witness Thomas, issue a protective order protecting the confidential testimony and exhibits from disclosure, and granting such other and further relief as is just and proper.

[SIGNATURE PAGE FOLLOWS]

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Mitchell Willoughby", written over a horizontal line.

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*Attorneys for South Carolina
Electric & Gas Company*

Columbia, South Carolina
March 9, 2009

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2009-2-E

RECEIVED
2009 MAR -9 PM 11:45
SOUTH CAROLINA
PUBLIC SERVICE

IN RE:)	
)	
Annual Review of Base Rates For)	CERTIFICATE OF SERVICE
Fuel Costs of South Carolina Electric)	
and Gas Company.)	
_____)	

This is to certify that I have caused to be served this day one (1) of South Carolina Electric & Gas Company's **Motion for Confidential Treatment** by placing same in the care and custody of the United States Postal Service with first class postage affixed thereto and addressed as follows:

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1025 Thomas Jefferson Street NW
Washington, D.C. 20007-5201


Clark Fancher

Columbia, South Carolina
This 9th day of March, 2009.